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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,128	12/30/2000	Yosef Freedlan	JST-15	1786

24039 7590 04/22/2003

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EXAMINER

FERKO, KATHRYN P

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 04/22/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,128

Applicant(s)

FREEDLAN, YOSEF

Examiner

Kathryn Ferko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) 1-41 and 45-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-41 and 45-63 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 1-41 and 45-63 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.
2. Applicant's election without traverse of Group 2 (Species II), specifically claims 42-44, in Paper No. 6 is acknowledged.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
4. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 42 recites a "first annular groove having a first diameter, and a second annular groove having a second diameter, wherein the second diameter is larger than the first diameter and smaller than the widest diameter of the nut; and a band disposed in either of the first and second grooves to keep the two or more nut sections in assembly..." However, neither the specification nor the drawings provide support for either the first annular groove or the second annular groove. There are two ramped surfaces (R1 and R2) demonstrated, but no elements labeled as grooves. Therefore, it is unclear from the drawings where

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the first and second annular grooves are located. It is unclear if the ramped surfaces are intended to correspond to the annular grooves. Therefore, any art rejections will be as best understood.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 42 is rejected under 35 U.S.C. 102(b) as being anticipated by Goble et al. in US Patent No. 5,702,397.

Goble et al. disclose a suture nut having two or more nut sections (such as 158a and 158b) which form a nut when assembled; a nut having a non-threaded bore with a friction surface, a first annular groove having a first diameter, and a second annular groove having a second diameter, wherein the second diameter is larger than the first diameter and smaller than the widest diameter of the nut, as recited in column 12, lines 43-67, column 13, lines 1-25 and seen in figure 26; a band (such as 150) disposed in either of the first and second grooves to keep the two or more nut sections in assembly; wherein the nut sections are spaced from one another a first distance when the band is in the first groove and in closer proximity or in contact with one another when the band is in the second groove, (as when elements (158a and 158B are inserted in element 150, at partial engagement the nut sections are spaced from each other

and in full engagement and insertion the nut sections are in closer proximity to each other); and a suture nut that is capable of securing a suture when the band is disposed in the second groove, as recited in column 12, lines 43-67, column 13, lines 1-25 and seen in figure 26.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goble et al. in US Patent No. 5,702,397.

Goble et al. disclose the invention as applied to claim 42. However, a second non-threaded bore having a friction surface such that the suture nut can retain at least two suture portions and a bore that is non-circular so that the suture nut will retain at least two suture portions in the same bore have not been explicitly recited. However, other embodiments such as that shown in figure 5 show retaining at least two suture portions. Therefore, it would be obvious to one with ordinary skill in the art to assure the embodiment shown in figure 26 hold a plurality of sutures for the purpose of increasing capacity. Further, it is noted that the current application does not demonstrate (or depict in the figures) a plurality of sutures being held in the apparatus.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are as follows: US Patent No. 6,540,751; US Patent No. 6,524,316; US Patent No. 6,419,700; US Patent No. 6,302,886; US Patent No. 6,290,701; US Patent No. 6,162,234; US Patent No. 5,860,978; US Patent No. 4,274,323; and US Patent No. 3,643,987.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn Ferko whose telephone number is (703) 306-3454. The examiner can normally be reached on M-F (7:30-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A Bennett can be reached on (703) 308-0101. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

KF
April 21, 2003


DENISE V. ESQUIVEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700